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CITY HR CONSUMER DUTY

14 March 2023

An overview of the Consumer Duty Regulations and their impact on people management activities

- ▶ Background to Consumer Duty – what is it and what does it involve?
- ▶ Dates and key stages
- ▶ Project Team – who should be looking at this in your firm?
- ▶ What could happen if the firm doesn't get on board?
- ▶ Why does this matter to HR?
- ▶ What issues could arise?
- ▶ 'Regulatory grid' - What else to look out for in 2023

Consumer Duty - Why now?

- ▶ FCA was required under the Financial Services Act 2021 to consult on:
 - whether it should make general rules providing for a duty of care
 - whether it should make other provisions in general rules about the level of care that authorised persons must give to consumers, either instead of or in addition to a duty of care
 - whether a duty of care should be owed, or other provision should apply, to all consumers or to particular classes of consumer, and
 - the extent to which a duty of care, or other provision, would advance its consumer protection objective

Where to find the new rules and guidance



A new Consumer Duty

Feedback to CP21/36 and final rules

Policy Statement

PS22/9

July 2022



Finalised Guidance

FG22/5 Final non-Handbook Guidance
for firms on the Consumer Duty

July 2022

New rules for firms



New rules for individuals



ICR1
Act with integrity

An icon showing two hands shaking, symbolizing integrity or agreement.

ICR2
Act with skill, care and diligence

An icon of a hierarchical organizational chart with three levels of boxes.

ICR3
Be open and co-operative with the FCA, the PRA and other regulators

ICR4
Pay due regard to the interests of customers and treat them fairly

An icon of three stylized human figures, representing customers or individuals.

ICR5
Observe proper standards of market conduct

An icon of a checkmark inside a square box, symbolizing compliance or standards.

ICR6
Act to deliver good outcomes for retail customers*

*Not yet in force

Impact on Senior Manager Conduct Rules

SM1

Take reasonable steps to ensure that the business of the firm for which you are responsible is controlled effectively

SM2

Take reasonable steps to ensure that the business of the firm for which you are responsible complies with relevant regulatory requirements

SM3

Take reasonable steps to ensure that any delegation of your responsibilities is to an appropriate person and that you oversee the discharge of the delegated responsibility effectively

SM4

Disclose appropriately any information of which the FCA or PRA would reasonably expect notice

Rules on policies, strategy and incentives

2A.8.1 R A firm must: (1) ensure that Principle 12 and the obligations in this chapter are reflected in their strategies, governance, leadership and people policies, including incentives at all levels; and

(2) ensure that retail customer outcomes are a central focus of:

(a) the firm's risk control arrangements under SYSC; and

(b) the firm's internal audit function

Consumer Duty Governance – Board role

*"We expect a firm's board or equivalent governing body to ensure that the Duty is being considered in **all relevant contexts**, such as considering the impact of their governance and remuneration policies on delivering good outcomes for customers and ensuring that customer outcomes are a key lens for risk and internal audit functions."*

FCA Finalised Guidance FG 22/5, page 111

Formal Annual Board Review and Confirmation

2A.8.3 R A firm must prepare a report for its governing body setting out the results of its monitoring under PRIN 2A.9 and any actions required as a result of the monitoring.

2A.8.4 R At least annually, the governing body of a firm must:

- (1) review and approve the firm's report on the outcomes being received by retail customers;
- (2) confirm whether it is satisfied that the firm is complying with its obligations under Principle 12 and PRIN 2A; and
- (3) assess whether the firm's future business strategy is consistent with its obligations under Principle 12 and PRIN 2A.

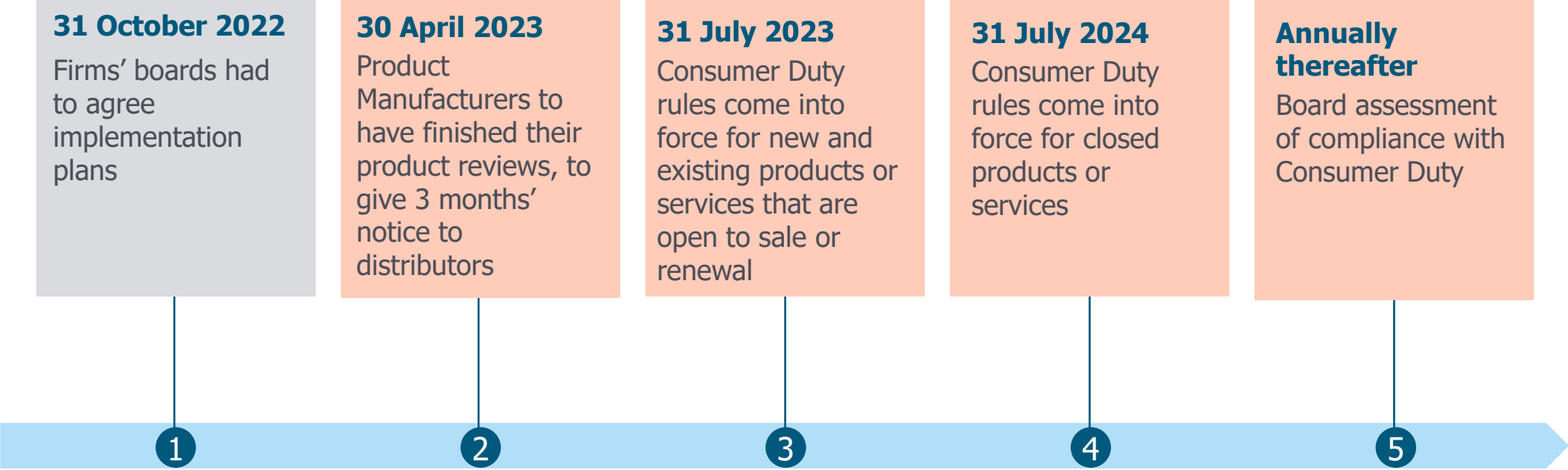
INED Consumer Duty Champion

“We expect firms to have a champion at board (or equivalent governing body) level who, along with the Chair and the CEO, ensures that the Duty is being discussed regularly and raised in all relevant discussions. The champion should be an Independent Non-Executive Director (NED), where possible.

***For larger organisations with group structures,** we expect this champion to be at an appropriate level to ensure that the Duty is discussed in a meaningful way. This expectation applies reasonably, so we would not necessarily expect the same level of formality in smaller firms.”*

(FCA Finalised Guidance FG22/5, page 111)

Consumer Duty implementation timeline



Consequences for firms – what to expect

- ▶ Dear CEO letters
- ▶ Post implementation review
- ▶ Thematic review
- ▶ Supervision and enforcement
- ▶ VREQS, OIREQs

Why does this matter to HR?

- ▶ Key role to play in supporting business and Board in meeting Duty obligations and FCA expectations
- ▶ Embedding the Consumer Duty principles in practice
- ▶ Alive to people issues and needs
- ▶ Are you on the implementation Team?
- ▶ More broadly, is there sufficient resource and support for that resource?

What does the FCA expect?

6.2. Culture and people

The higher standards of the Duty and the shift to focusing on consumer outcomes will require a significant change in many firms' culture.

Firms should ensure that the interests of their customers are central to their culture and purpose and that this is embedded throughout the organisation. This means strategies, leadership and people policies (including incentives at all levels) lead to good outcomes for customers. Individual accountability and high standards of personal conduct in firms will ensure that firms are meeting their obligations under the Duty.

<https://www.fca.org.uk/publications/multi-firm-reviews/consumer-duty-implementation-plans>
25.1.23

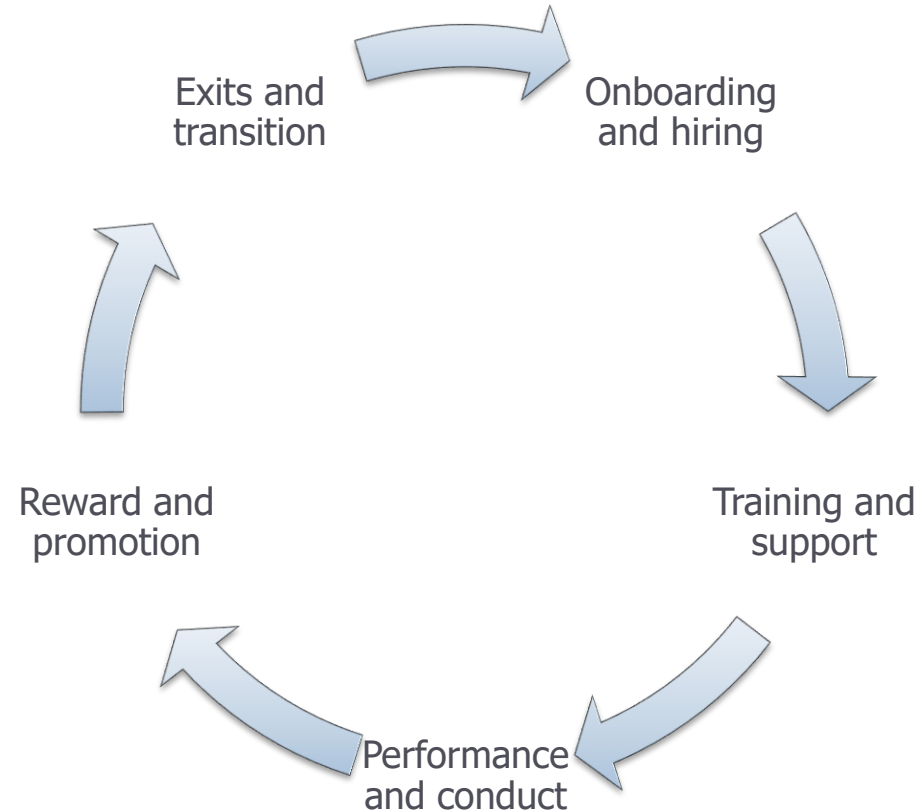
Getting ready for implementation....

▶ Key actions:

- Training and support – SMFS and cascade down
- Equipping individual staff to meet their obligations
- Review of
 - Conduct rule related processes and reporting
 - Performance metrics and expectations
 - Reward considerations and metrics
 - Code of conduct and values statements
 - Job descriptions and adverts

...and beyond

Embedding the duty into the employment lifecycle



Spotting the potential challenges and people issues

- ▶ How to best embed culture and duty obligations?
- ▶ SMF call for resource and support
- ▶ Pressure on middle management level
- ▶ Whistleblowing and cultures

The FCA Grid: regulatory developments ahead...

▶ Q1 2023

- SMCR: HMT Call for Evidence and FCA/PRA Discussion papers expected

▶ Q1/Q2 2023

- FRC planning to consult on changes to UK Corporate Governance Code

▶ Q3 2023

- FCA/PRA policy statement expected on review of ratio of fixed/variable remuneration

Other regulatory developments ahead...

- ▶ H1 2023 - Q4 2023/Q1 2024
 - Diversity & Inclusion: FCA/PRA joint consultation delayed to H1 2023; policy statement scheduled for Q4 2023/Q1 2024

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